

108140179CAS/sis
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LAMIS ALKHARSA,

Plaintiff,

Index No. 08 Civ. 4254 (JGK)
**ANSWER WITH
JURY DEMAND**

-against-

NEW HANG DAR CONSTRUCTION, INC.,
JIMMY HO,
BRIAN ILL DEVELOPMENT, LLC,
BRIAN ILL,
MADALEX, LLC,
SCOTT EDELSTEIN,
ALEX TEREZ,
EMPIRE MANAGEMENT AMERICA CORP.
AKA EMPIRE MANAGEMENT, and
FRED SHALOM,

Defendants.

-----x

Defendant, ***MADALEX, LLC, SCOTT EDELSTEIN and ALEX PEREZ s/h/a ALEX TEREZ*** by and through their attorneys, the Law Offices of Charles J. Siegel, answering the verified complaint of the plaintiff herein, alleges upon information and belief:

ANSWERING TO JURISDICTION

FIRST: Denies any knowledge or information sufficient to form a belief as to paragraphs designated "1", "2", "3", "4", "5", "9" and "10" of the complaint.

SECOND: Admits to paragraph "6" of the complaint that defendant Madalex, LLC., is a limited liability company formed under the law of New York.

THIRD: Admits to paragraph "7" of the complaint that defendant Scott Edelstein is a citizen of New York.

FOURTH: Denies every allegation to paragraph "8" of the complaint except admits that defendant Alex Perez s/h/a Alex Terez, is a citizen of New Jersey.

FIFTH: Denies paragraphs designated "11" of the complaint and refer all questions of law to the Court at the time of trial.

PARTIES

SIXTH: Denies any knowledge or information sufficient to form a belief as to paragraphs designated "12", "13", "14", "15", "16", "17", "18", "19", "20", "21", "22", "23", "33", "34", "35", "36", "37" and "38" of the complaint.

SEVENTH: Denies paragraphs designated "24", "25", "26", "28", "29", of the complaint and refer all questions of law to the Court at the time of trial.

EIGHTH: Deny paragraphs "27" of the complaint.

NINTH: Alex Perez s/h/a Alex Terez denies paragraph "30" of the complaint.

TENTH: Alex Perez s/h/a Alex Terez denies paragraph "31" and "32" of the complaint and refer all questions of law to the Court at the time of trial.

INCIDENT

ELEVENTH: Deny any knowledge or information sufficient to form a belief as to paragraph designated "39" of the complaint.

TWELFTH: Deny paragraph "40" of the complaint.

ANSWERING COUNT I: PLAINTIFF VS. NEW HANG DAR CONSTRUCTION, INC..

THIRTEENTH: These defendants repeat and reiterate all the admissions and denials contained in the foregoing answer, with reference to those paragraphs repeated and reiterated in paragraph "41" of the complaint.

FOURTEENTH: Denies any knowledge or information sufficient to form a belief as to paragraphs designated "43" through "54" of the complaint.

COUNT II: PLAINTIFF VS. JIMMY HO

FIFTEENTH: These defendants repeat and reiterate all the admissions and denials contained in the foregoing answer, with reference to those paragraphs repeated and reiterated in paragraph "55" of the complaint.

SIXTEENTH: Denies any knowledge or information sufficient to form a belief as to paragraphs designated "56" through "68" of the complaint.

COUNT III: PLAINTIFF VS. BRIAN ILL DEVELOPMENT, LLC

SEVENTEENTH: These defendants repeat and reiterate all the admissions and denials contained in the foregoing answer, with reference to those paragraphs repeated and reiterated in paragraph "69" of the complaint.

EIGHTEENTH: Denies any knowledge or information sufficient to form a belief as to paragraphs designated "70" through "82" of the complaint.

COUNT IV: PLAINTIFF VS. BRIAN ILL

EIGHTEENTH: These defendants repeat and reiterate all the admissions and denials contained in the foregoing answer, with reference to those paragraphs repeated and reiterated in paragraph "83" of the complaint.

NINETEENTH: Denies any knowledge or information sufficient to form a belief as to paragraphs designated "84" through "96" of the complaint.

COUNT V: PLAINTIFF VS. MADALEX,L LLC

TWENTIETH: These defendants repeat and reiterate all the admissions and denials contained in the foregoing answer, with reference to those paragraphs repeated and reiterated in paragraph "97" of the complaint.

TWENTY-FIRST: Denies paragraphs "98" through "110" of the complaint.

COUNT VI: PLAINTIFF VS. SCOTT EDELSTEIN

TWENTY-SECOND: These defendants repeat and reiterate all the admissions and denials contained in the foregoing answer, with reference to those paragraphs repeated and reiterated in paragraph "111" of the complaint

TWENTY-THIRD: Denies paragraphs "112" through "124" of the complaint.

COUNT VII: PLAINTIFF VS. ALEX TEREZ

TWENTY-FOURTH: These defendants repeat and reiterate all the admissions and denials contained in the foregoing answer, with reference to those paragraphs repeated and reiterated in paragraph "125" of the complaint.

TWENTY-FIFTH: Alex Perez s/h/a Alex Terez denies paragraphs designated "126" through "138" of the complaint.

COUNT VIII: PLAINTIFF VS. EMPIRE MANAGEMENT AMERICA CORP., AKA EMPIRE MANAGEMENT

TWENTY-SIXTH: These defendants repeat and reiterate all the admissions and denials contained in the foregoing answer, with reference to those paragraphs repeated and reiterated in paragraph "139" of the complaint.

TWENTY-SEVENTH: Denies any knowledge or information sufficient to form a belief as to paragraphs designated "140" through "152" of the complaint.

COUNT IX: PLAINTIFF VS. FRED SHALOM

TWENTY-EIGHT: These defendants repeat and reiterate all the admissions and denials contained in the foregoing answer, with reference to those paragraphs repeated and reiterated in paragraph "153" of the complaint.

TWENTY-NINTH: Denies any knowledge or information sufficient to form a belief as to paragraphs designated "154" through "166" of the complaint..

THIRTIETH : EXCEPT WHERE SPECIFICALLY ADMITTED, THE DEFENDANTS, *MADALEX, LLC, SCOTT EDELSTEIN and ALEX PEREZ s/h/a ALEX TERE*., DENIES ALL OTHER ALLEGATIONS CONTAINED IN THE COMPLAINT.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

THIRTY-FIRST: Upon information and belief, any past or future costs or expenses incurred or to be incurred by the plaintiff for medical care, dental care, custodial care, or rehabilitative services, loss of earnings, or other economic loss, has been or will, with reasonable certainty, be placed or indemnified in whole or in part from collateral source as defined in Section 4545(c) of the New York Civil Practice Law and Rules.

If any damages are recoverable against said defendant, the amount of such damages shall be diminished by the amount of the funds which plaintiff has or shall receive from such collateral source.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE:

THIRTY-SECOND: In the event that the plaintiff recovers any judgment against this defendant then this defendant demand that any such judgment be diminished in accordance with Article 16 of the CPLR and more particularly Section 1601 thereof.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE:

THIRTY-THIRD: If the plaintiff sustained damages as alleged, such damages occurred while plaintiff was engaged in an activity into which she entered, knowing the hazard, risk and danger of the activity and she assumed the risks incidental to and attending the activity.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE:

THIRTY-FOURTH: Defendant, *MADALEX, LLC, SCOTT EDELSTEIN and ALEX PEREZ s/h/a ALEX TEREZ* pursuant to Section 1412 of the CPLR, alleges on information and belief, that if plaintiff sustained any injuries or damages at the time and place alleged in her complaint, such injuries or damages were the result of the culpable conduct of the plaintiff or because of the plaintiff's negligence and assumption of risk. Should it be found however, that the answering defendant is liable to the plaintiff herein, any liability being specifically denied, then the answering defendant alleges that if any damages are found, they are to be apportioned among the

plaintiff and defendants according to the degree of responsibility that each is found to have in the occurrence, in proportion to the entire measure of responsibility for the occurrence.

**AS AND FOR A CROSS-CLAIM AGAINST THE DEFENDANTS,
NEW HANG DAR CONSTRUCTION, INC.,
JIMMY HO, BRIAN ILL DEVELOPMENT, LLC,
BRIAN ILL,EMPIRE MANAGEMENT AMERICA CORP.**

**AKA EMPIRE MANAGEMENT, and FRED SHALOM, THE DEFENDANT, *MADALEX, LLC, SCOTT EDELSTEIN and ALEX PEREZ s/h/a ALEX TERE ALLEGES*,
UPON INFORMATION AND BELIEF, PURSUANT TO CPLR 3019 (b):**

THIRTY-FIFTH: That if the plaintiff sustained the damages alleged in the complaint through any negligence and/or breach of warranty and/or breach of contract and/or breach of indemnification agreement other than her own, such damages were caused by and resulted from the negligence and/or breach of warranty and/or breach of contract and/or breach of indemnification agreement of the above-named co-defendant.

That if the plaintiff recover a verdict against the answering defendant for the damages alleged in the complaint, such liability will have been caused by the negligence and/or breach of warranty and/or breach of contract and/or breach of indemnification agreement of the above-named co-defendant.

That by reason of the foregoing, if any verdict or judgment is rendered in favor of the plaintiff against the answering defendant, then the above named co-defendant will be liable to the answering defendant, in whole or in part, for said verdict and for costs and expenses incurred by the said answering defendant in the defense of this action.

THIRTY-SIXTH: A jury trial is hereby demanded on all issues.

WHEREFORE, the answering defendant ***MADALEX, LLC, SCOTT EDELSTEIN and ALEX PEREZ s/h/a ALEX TEREZ*** demands a trial by a jury dismissing the complaint herein and further demands judgment over and against the co-defendant hereinbefore named, in whole or in part, for any verdict or judgment rendered against the answering defendant, together with the costs and disbursements of this action and the attorney's fees and expenses incurred herein.

Dated: New York, New York
July 2, 2008

Yours, etc.

Law Offices of
CHARLES J. SIEGEL
Attorney for Defendant
MADALEX, LLC, SCOTT
EDELSTEIN and ALEX PEREZ s/h/a
ALEX TEREZ
Office & P.O. Address
40 Wall Street - 7th Floor
New York, New York 10005
(212) 440-2350

By: _____
Christopher A. South (CS7212)

TO: ROBERT G. LEINO, ESQ.
Attorneys for Plaintiff
354 E.91st Street
Apt. 1101
New York, NY 10128
212-289-8357

James M. Skelly, Esq.
Marks O'Neill O'Brien & Courtney, P.C.
Attorneys for Defendants
New Hange Dar. Construction
Inc., and Jimmy Ho
530 Saw Mill River Road
Elmsford, New York 10523

Carlie Fitapelli, Esq.
Havkins Rosenfeld Ritzert & Marriale, LLP
Attorneys for Defendants
Empire Management and Fred Shalom
114 Old Country Road – Suite 300
Mineola, New York 11501

Brian Ill and Brian Ill Development, LLC
611 Riverside Avenue
Westport, Ct. 06880

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

Sheila I Sample, being duly sworn, deposes and says:

That deponent is not a party to this action, is over 18 years of age and resides in Brooklyn, New York,

that she is a clerk in the Law Office of CHARLES J. SIEGEL, the attorneys for the defendant, ***MADALEX, LLC, SCOTT EDELSTEIN and ALEX PEREZ s/h/a ALEX TERE***herein, that on the day of July, 2008, she served the within ***ANSWER WITH JURY DEMAND*** upon the undersigned attorneys by mailing a true copy in a postpaid wrapper in an official depository under the exclusive care and custody of the United States Postal Service within New York City, New York directed to them at the addresses shown, heretofore designated by them for that purpose:

TO:
ROBERT G. LEINO, ESQ.
Attorneys for Plaintiff
354 E.91st Street
Apt. 1101
New York, NY 10128
212-289-8357

James M. Skelly, Esq.
Marks O'Neill O'Brien & Courtney, P.C.
Attorneys for Defendants
New Hange Dar. Construction
Inc., and Jimmy Ho
530 Saw Mill River Road
Elmsford, New York 10523

Carlie Fitapelli, Esq.
Havkins Rosenfeld Ritzert & Marriale, LLP
Attorneys for Defendants
Empire Management and Fred Shalom
114 Old Country Road – Suite 300
Mineola, New York 11501

Brian Ill and Brian Ill Development, LLC
611 Riverside Avenue
Westport, Ct. 06880

Sheila I. Sample

Sworn to before me this
day of July, 2008.